

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RIN 0648-XA756]

Marine Mammals; File No. 15537

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; request for comment on permit amendment.

SUMMARY: Notice is hereby given that NMFS is considering an amendment to Permit No. 15337 issued to the Institute for Marine Mammal Studies (IMMS), P.O. Box 207, Gulfport, MS 39502 (Dr. Moby Solangi, Responsible Party). This permit authorizes the acquisition of stranded, releasable California sea lions (*Zalophus californianus*) from the National Marine Mammal Health and Stranding Response Program for the purposes of public display. The permit amendment is in response to a court decision to remand this permit to NMFS for reconsideration.

DATES: Written, telefaxed, or e-mail comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

ADDRESSES: The current permit and related documents are available for review online at <http://www.nmfs.noaa.gov/pr/permits/review.htm> or upon written request or by appointment in the following office:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)427-8401; fax (301)713-0376.

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore or Amy Sloan, (301) 427-8401.

SUPPLEMENTARY INFORMATION: The permit was issued on October 5, 2011, under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216). NMFS received several comments from members of the Marine Mammal Stranding Network and animal welfare organizations during the 30-day public comment period for the application that objected to animals undergoing rehabilitation and deemed fit for return to the wild being placed in public display, which commenters said contradicts the goals and mission of the Marine Mammal Stranding Network. Based in part on those comments and as explained in the memorandum documenting the decision on this permit, we included the following conditions in the permit:

Condition B.2: This permit does not guarantee that the Permit Holder will be able to obtain any releasable sea lions from rehabilitation facilities, and does not require NMFS to direct any rehabilitation facilities to provide the Permit Holder with releasable sea lions. Thus, NMFS will not make arrangements for animals to be provided to IMMS, and rehabilitation facilities are under no obligation to provide animals to fulfill this permit. And Condition B.3: The Permit Holder is solely responsible for entering into cooperative agreements with partnering rehabilitation facilities, and must work directly with the

facilities to be notified of any potential candidate animals to be acquired under this Permit.

After NMFS issued the permit, IMMS challenged the above provisions in U.S. District Court. As described in the Court's opinion, the Court remanded the permit to NMFS for reconsideration. *IMMS v. NMFS, No. 1:11CV318-LG-JMR* (S.D.Miss. 2014). NMFS is, therefore, proposing to remove Permit Condition B.3 and amend Permit Condition B.2 of the issued permit to state the following:

Condition B.2: This permit does not guarantee that the Permit Holder will be able to obtain any releasable sea lions from rehabilitation facilities, and does not require NMFS to direct or make arrangements for any rehabilitation facilities to provide the Permit Holder with releasable sea lions. Since NMFS does not maintain real-time information regarding releasable sea lions in the stranding network, the Permit Holder should work initially with the rehabilitation facilities to be notified of any potential candidate animals to be acquired under this Permit. Final decisions with respect to use of rehabilitated marine mammals for public display purposes in lieu of take from the wild are at the ultimate discretion of the Office Director in accordance with 50 CFR 216.27(b)(4).

In accordance with NMFS' Memorandum in Opposition to Motion to Alter or Amend the Court's Judgment in the aforementioned case, NMFS is seeking comments from the public specifically on these proposed revisions. In addition, NMFS is proposing to extend the permit for one additional year, to expire on October 5, 2017, since the permit has been in litigation, was never initially signed by the applicant, and, therefore, was never invoked.

In compliance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), an environmental assessment (EA) was prepared for issuance of the original permit, which resulted in a finding of no significant impact. An initial determination has been made that no further NEPA analysis is necessary as the changes requested in the proposed amendment will not change the effects to the human environment in a manner not previously considered in the EA for Permit No. 15337.

Dated: June 24, 2015.

Julia Harrison, Chief,
Permits and Conservation Division,
Office of Protected Resources,
National Marine Fisheries Service.

Billing Code: 3510-22-P

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